

Saturday, October 19, 2019 at 7:02:38 PM Eastern Daylight Time

Subject: Re: Sony v. Cox - trial witnesses

Date: Monday, September 16, 2019 at 6:35:08 PM Eastern Daylight Time

From: Jeff Gould

To: Buchanan, Tom

CC: Matt Oppenheim, Elkin, Michael S., Golinveaux, Jennifer A., Anderson, Sean R.

Tom – we have not heard back from you on the below issue. Will you respond?

Jeffrey M. Gould

Oppenheim + Zebrak, LLP

202.851.4526 (direct)

jeff@oandzlaw.com

From: Jeff Gould <Jeff@oandzlaw.com>

Date: Monday, August 19, 2019 at 1:33 PM

To: "Buchanan, Tom" <TBuchana@winston.com>

Cc: Matt Oppenheim <Matt@oandzlaw.com>, "Elkin, Michael S." <MElkin@winston.com>, "Golinveaux, Jennifer A." <JGolinveaux@winston.com>, "Anderson, Sean R." <sranderson@winston.com>

Subject: Re: Sony v. Cox - trial witnesses

Tom – We agree that witnesses should appear live just once. To that end, we can agree that for any Cox witness that we examine live in Plaintiffs' case in chief, Cox may cross examine them outside the scope of Plaintiffs' direct, in lieu of calling the same witness twice. This eliminates the need for witnesses to take two trips to Virginia and levels the playing field on both sides' ability to present live testimony.

Cox said in its witness list that it expects to call Carothers, Beck, Mencher and Negretti live and may call Zabek and Sikes live or by deposition. We object to Cox calling Zabek or Sikes affirmatively by deposition given that Cox controls them and could bring them to trial if it wants to, and we intend to move in limine accordingly. Mr. Zabek already confirmed in his deposition that he would testify at trial if asked. We are now asking. Please confirm that you will make the request pursuant to Cox's agreement with him and also ask Mr. Sikes the same. We would ask that they be available during Plaintiffs' case in chief.

We will also want Carothers and Beck live in Plaintiffs' case in chief. Please let us know if you will consent to this.

If Cox refuses to make these 4 witnesses (Carothers, Beck, Zabek, Sikes) available live in Plaintiffs' case in chief, we will move to preclude Cox from calling them live in its case.

For other witnesses that Cox calls live, will Cox agree that Plaintiffs can cross examine outside the scope of Cox's direct?

Regards,
Jeff

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On 8/1/19, 2:12 PM, "Buchanan, Tom" <TBuchana@winston.com> wrote:

Not sure if we will call all of those witnesses, but those we do call we will bring for our case in chief, not earlier. If this were a three day trial, then things would be different. But we cannot force these people to come to Va. twice in a 3 week time period.

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-----Original Message-----

From: Jeff Gould <Jeff@oandzlaw.com>
Sent: Wednesday, July 31, 2019 5:34 PM
To: Buchanan, Tom <TBuchana@winston.com>
Cc: Anderson, Sean R. <SRanderson@winston.com>; Elkin, Michael S. <MEElkin@winston.com>; Matt Oppenheim <Matt@oandzlaw.com>
Subject: Re: Sony v. Cox - trial witnesses

Tom - We have not heard back from you on my question below about witnesses. Please let us know when we can expect a response.

Thanks,
Jeff

Jeffrey M. Gould
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jeff@oandzlaw.com

On 7/26/19, 6:49 PM, "Buchanan, Tom" <TBuchana@winston.com> wrote:

Thanks. Will do.

On Jul 26, 2019, at 5:16 PM, Jeff Gould <Jeff@oandzlaw.com<mailto:Jeff@oandzlaw.com>> wrote:

Tom - We agree to accept service of subpoenas to Steve Marks and Victoria Sheckler.

On a related point, Plaintiffs expect to present at trial a number of witnesses whom Cox controls but who appear to be outside the Court's subpoena power. This includes Brent Beck, Matt Carothers, Sandy Mencher, Sidd Negretti, Joseph Sikes, and Jason Zabek. Please let us know whether Cox will agree to make these witnesses available live in Plaintiffs' case-in-chief?

Regards,
Jeff

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From: "Buchanan, Tom" <TBUchana@winston.com<<mailto:TBUchana@winston.com>>>
Date: Thursday, July 25, 2019 at 11:55 AM
To: Jeff Gould <Jeff@oandzlaw.com<<mailto:Jeff@oandzlaw.com>>>
Cc: "Anderson, Sean R." <sranderson@winston.com<<mailto:sranderson@winston.com>>>, "Elkin, Michael S." <MElkin@winston.com<<mailto:MElkin@winston.com>>>, Matt Oppenheim <Matt@oandzlaw.com<<mailto:Matt@oandzlaw.com>>>
Subject: RE: Sony v. Cox - proposed schedule

Thanks.

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From: Jeff Gould <Jeff@oandzlaw.com<<mailto:Jeff@oandzlaw.com>>>
Sent: Thursday, July 25, 2019 11:50 AM
To: Buchanan, Tom <TBUchana@winston.com<<mailto:TBUchana@winston.com>>>
Cc: Anderson, Sean R. <sranderson@winston.com<<mailto:sranderson@winston.com>>>; Elkin, Michael S. <MElkin@winston.com<<mailto:MElkin@winston.com>>>; Matt Oppenheim

<Matt@oandzlaw.com<mailto:Matt@oandzlaw.com>>

Subject: Re: Sony v. Cox - proposed schedule

Tom – I believe we can accept service but will confirm for sure by the end of the week and get back to you.

Regards,
Jeff

Jeffrey M. Gould
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From: "Buchanan, Tom" <TBuchana@winston.com<mailto:TBuchana@winston.com>>
Date: Thursday, July 25, 2019 at 11:43 AM
To: Jeff Gould <Jeff@oandzlaw.com<mailto:Jeff@oandzlaw.com>>
Cc: "Anderson, Sean R." <sranderson@winston.com<mailto:sranderson@winston.com>>, "Elkin, Michael S." <MElkin@winston.com<mailto:MElkin@winston.com>>
Subject: RE: Sony v. Cox - proposed schedule

If I don't hear back from you by the end of the week, we will serve them directly. Thanks.

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From: Buchanan, Tom
Sent: Wednesday, July 24, 2019 10:28 AM
To: 'Jeff Gould' <Jeff@oandzlaw.com<mailto:Jeff@oandzlaw.com>>
Cc: Anderson, Sean R. <SRanderson@winston.com<mailto:SRanderson@winston.com>>; Elkin, Michael S. <MElkin@winston.com<mailto:MElkin@winston.com>>

Subject: RE: Sony v. Cox - proposed schedule

Please let me know if you will accept service of trial subpoenas for these two witnesses. Thanks.

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From: Buchanan, Tom
Sent: Tuesday, July 16, 2019 1:45 PM
To: 'Jeff Gould' <Jeff@oandzlaw.com<<mailto:Jeff@oandzlaw.com>>>
Subject: RE: Sony v. Cox - proposed schedule

BTW, will you accept service of trial subpoenas for Steve Marks and Victoria Scheckler. Thanks.

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